

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

TOWN OF CANTON,

Plaintiff,

v.

C.A. 04 11383 RGS

SELECT ENERGY, INC.,

Defendant.

2004-11-24 A/H/S
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOINT MOTION TO MODIFY SCHEDULING ORDER

Pursuant to Local Rule 16.1(G), the parties jointly request that the Court modify the Scheduling Order by postponing all events by 60 days so that the parties can focus on participating in the mediation scheduled before Magistrate Judge Dein on December 20, 2004.

In support of this Motion the parties jointly state as follows:

1. The parties agreed to mediate this dispute before Magistrate Judge Dein shortly after the initial scheduling conference on August 30, 2004, and after they had submitted their proposed scheduling order to the Court.
2. On October 1, 2004, the parties jointly sought to postpone the deadline for Rule 26 disclosures from October 4, 2004 until December 1, 2004, since they had agreed to mediate the dispute. The parties jointly agreed that it made little sense to incur legal expenses if they were going to participate in mediation.
3. On October 5, 2004, the Court entered an Order of Reference to the ADR Panel for mediation.
4. On November 19, 2004, an order was entered that the parties are to appear for a court-sponsored mediation on December 20, 2004 before Magistrate Judge Dein. As part of the mediation process, the parties are required to file briefs with the Court on December 13, 2004.

5. The parties now jointly seek to postpone by 60 days all events on the Scheduling Order so that they can focus on attempting to resolve this dispute by ADR without incurring legal expenses in connection with the lawsuit.
6. The parties jointly state that a further continuance of the Rule 26 disclosure deadline to February 1, 2005 and a postponement of all other deadlines in the Scheduling Order by 60 days will facilitate their settlement discussions and allow them to focus on attempting to resolve this dispute.
7. Accordingly, the parties request that the Court modify the scheduling order as follows:
 - a. Initial disclosure shall be made by February 1, 2005;
 - b. Motions to amend pleadings shall be filed by March 28, 2005;
 - c. Fact depositions shall be completed by July 31, 2005;
 - d. Plaintiff's expert report shall be served by August 30, 2005;
 - e. Defendant's expert reports shall be served by October 10, 2005;
 - f. All discovery shall be completed by November 16, 2005; and
 - g. Dispositive motions shall be filed by December 30, 2005, with responses due 14 days thereafter.

WHEREFORE, the parties jointly request that this Court:

1. Postpone the deadline for the parties to make their disclosures under Fed.R.Civ.P. 26 until February 1, 2005 and modify the scheduling order as set forth above; and
2. Grant such further relief as justice requires.

Respectfully submitted,

<p>Plaintiff THE TOWN OF CANTON</p> <p>By its attorneys</p> <p><i>[Handwritten signature]</i></p> <p>Paul R. DeRensis, BBO No. 121000 Kimberly M. Saillant, BBO No. 548775 DEUTSCH WILLIAMS BROOKS DERENSIS & HOLLAND, P.C. 99 Summer Street Boston, MA 02110-1235 Telephone: (617) 951-2300</p>	<p>Defendant SELECT ENERGY, INC.</p> <p>By its attorneys</p> <p><i>[Handwritten signature]</i></p> <p>Timothy W. Mungovan, BBO No. 600702 NIXON PEABODY LLP 100 Summer Street Boston, MA 02110 Telephone: (617) 345-1000 Facsimile: (617) 345-1300</p>
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Dated: November 19, 2004